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JUL 26 2005

**OFFICE OF PETITIONS**

In re Application of	:
Betz et al.	: Decision on Petition for
Application No. 09/914,545	: Patent Term Extension
International Filing Date: March 6, 2000	:
For: SOL-GEL COATING FOR SINGLE-	:
LAYER OR MULTI-LAYER VARNISHES	:

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term adjustment entitled "Request for Reconsideration of Patent Term Adjustment Indicated in Notice of Allowance (37 CFR 1.705)." In the alternative, the petition is being treated as a petition for corrected patent term extension under 35 CFR 1.181. See 35 U.S.C. § 154(b)<sup>1</sup> and 37 CFR § 1.701.

The petition under 37 CFR 1.705 is dismissed.

The petition under 37 CFR 1.181 is dismissed.

Petitioner notes that the above-identified application was filed on August 8, 2001 and the first Office action was mailed on January 28, 2004. Petitioner argues that the application is entitled to 454 days of patent term adjustment because the Office did not mail a first Office action within 14-month time frame.

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000.

35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for these administrative delays and others in applications filed on or after May 29, 2000.

The above-identified application was filed on March 6, 2000, before May 29, 2000 and, as a result, is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on

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<sup>1</sup>35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000). Since this amendment is effective May 29, 2000 and applies to applications filed on or after that date, the prior patent term adjustment provisions of 35 U.S.C. § 154 continue to apply to the above-identified application.

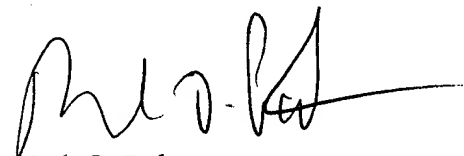
June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. While applicant argues that he is entitled to patent term adjustment because his application was filed on August 30, 2001, that is the date the application entered the national stage and completed the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The filing date of the application is March 6, 2000, which is the international filing date of the application.

Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute. As a result, this application is not eligible for patent term extension under 35 U.S.C. 154. The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

After mailing of this decision, the above-identified application will be returned to the Office of Publications.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. *See* 35 U.S.C. § 41(a)(7). Accordingly, as authorized in a telephone call with applicant's representative (Anne Sabourin, Reg. No. 33,772) on July 21, 2005, the required \$200 fee for the petition under 37 CFR 1.705(b) has been charged to petitioner's Deposit Account (23-3425).

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

A handwritten signature in black ink, appearing to read 'Mark O. Polutta', with a long horizontal stroke extending to the right.

Mark O. Polutta  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of the Deputy Commissioner  
for Patent Examination Policy